



CITY OF HAYWARD

AGENDA REPORT

Meeting Date 4/10/03
Agenda Item 1

TO: Planning Commission

FROM: Carl T. Emura, Associate Planner

SUBJECT: Variance No. PL-2003-0102 --Paige Bennett (Applicant/Owner) – Request to Allow a 7-Foot Fence Along the Side and Rear Property Lines.

The Property is Located at 313 Bridgecreek Way in the Single-Family Residential (RS) District

RECOMMENDATION:

Staff recommends that the Planning Commission:

1. Find that the proposed project is Categorically Exempt from the California Environmental Quality Act (CEQA) Guidelines, Section 15305, Class 5 (a), Minor Alteration in Land Use Limitations.
2. Deny the application, subject to the attached findings.

DISCUSSION:

The property is located in the Twin Bridges residential development. The applicant is requesting to retain a 7-foot high solid board redwood fence located along the side and rear property lines where a maximum 6-foot high fence is allowed. The fence is in the same style as the 6-foot high common property fence and is placed parallel to it.

The applicant has a dog fancier permit that allows her to keep up to 8 dogs on her property and she fosters 4-8 dogs at any given time until they are adopted or can be placed with the SPCA. Some dogs are there for days, others weeks and some may stay for months. The applicant stated that the seven-foot high fence was put up in response to one of her neighbor's concerns about safety. Several neighbors oppose the fence and the fostering of dogs on the property. They feel that the fence is an eyesore and decreases the value of their properties, and if a 7-foot high fence is required to protect them from the dogs, the applicant should not be allowed to foster dogs there.

Staff cannot support this application as there are no special circumstances applicable to the property to justify the variance. Approving the variance would be granting the applicant special privileges not allowed other properties in the vicinity.

ENVIRONMENTAL REVIEW:

The proposed project is categorically exempt from the California Environmental Quality Act (CEQA) guidelines, pursuant to Section 15305, Class 5 (a), Minor Alterations of Land Use Limitations.

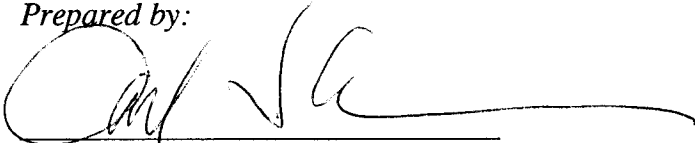
PUBLIC NOTICE:

On, March 31, 2003, a Notice of Public Hearing was mailed to every property owner and occupant within 300 feet of the subject site, as noted on the latest assessor's records, the Fairway Park Neighborhoods Association, and the Fairway Park Neighborhood Task Force.

CONCLUSION:

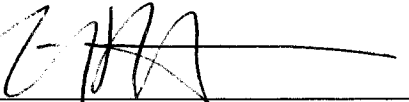
In staff's opinion, the 7-foot fence is visually intrusive to the adjacent properties and the necessary findings to support the variance cannot be made. Therefore staff, recommends that the variance be denied.

Prepared by:



Carl T. Emura ASLA
Associate Planner

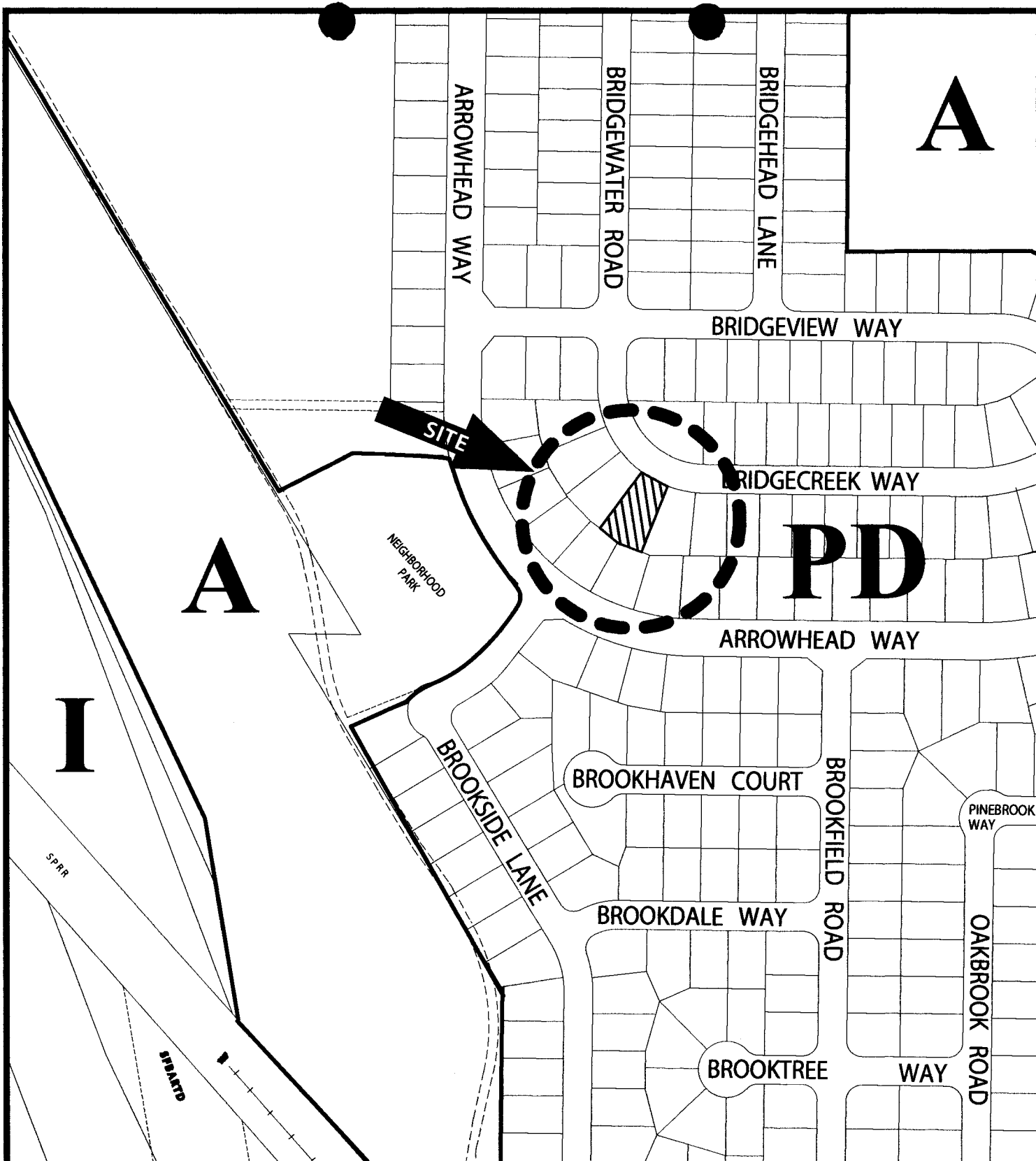
Recommended by:



for Dyana Anderly, AICP
Planning Manager

Attachments:

- A. Area Map
- B. Site Plan
- C. Photograph
- D. Emails
- E. Findings for Denial



Area & Zoning Map

PL-2003-0102 VAR

Address: 313 Bridgecreek Way

Applicant: Paige Bennett

Owner: Paige Bennett

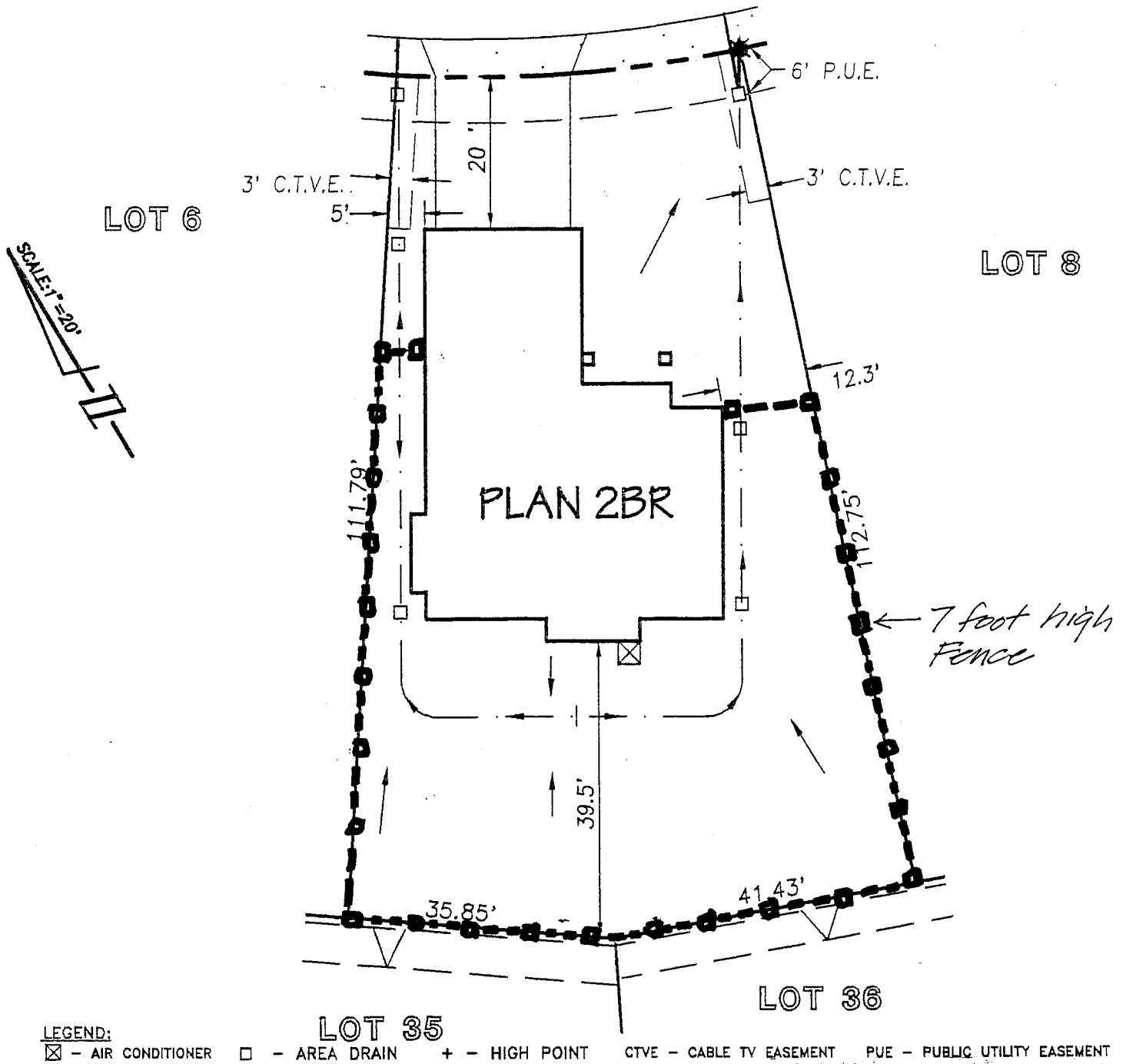
A-Agricultural-ABSA,AB10A,AB100A,AB160A

I-Industrial

PD-Planned Development



313 BRIDGECREEK WAY



SITE PLAN

Variance No. PL-2003-0102
313 Bridgecreek Way



The seven foot fence is to the left.

Carl Emura

From: DavidV7617@aol.com
Sent: Tuesday, February 18, 2003 2:59 AM
To: Carl Emura
Subject: Regarding PL-2003-0102

Dear Mr. Emura:

RE: PL-2003-0102, Paige Bennett

We are opposed to the above variance as the reason for this fence is to contain anywhere from 6 to 10 dogs at a time for adoption purposes. We feel this effects our property value.

Also, this issue needs to be brought before our property management company as this is also a violation of our CCRs. Our property management company is Massingham & Associates.

We strongly oppose this variance.

2/25/2003

ATTACHMENT D

Carl Emura

From: Kathleen DeWitt [kdewitt@csu Hayward.edu]
Sent: Friday, February 21, 2003 4:51 PM
To: Carl Emura
Subject: REFERENCE NUMBER IS PL-2003-0102

Hello, I am a resident at Twin Bridges community and it was brought to my attention that one of our neighbors is requesting a variance to retain a 7 ft. fence that they elected to put up. The following are my concerns and reasons for opposing the request:

- 1.) The fence was built to discourage vicious dogs that is kept on the premises from jumping over. They maintain a foster home for unowned dogs and keeps over the legal limit of 4 dogs.
- 2.) I am one of the individuals that witnessed one of these pitbulls jump over the fence which charged me, my husband, and our 2 senior dogs. My husband was able to yell and intimidate the dog back over the fence.
- 3.) We have an Homeowner's Association which include in the CCR's that no fence over 6 feet is allowed. They are also in violation of this restriction.
- 4.) The fence is unsightly. Being a member of this association, allowing the 7 ft. fence would give rise to potential liability for any issues that may occur because of the fence height. This could result in unnecessary legal suits against the association.
- 5.) Allowing the fence would encourage the practice of keeping vicious or unpredictable animals on the premises. The resident has already made reference to the fact that she would not be responsible for the safety of the neighborhood if she were made to lower the height of the fence. In my opinion, she is admitting to keeping vicious animals on her property and not taking responsibility for them.
- 6.) Resale value of the homes located near this residence would be in question. Who would want to buy in the area knowing about the "doggy-foster home" business.

Although the efforts of the resident are commendable, this neighborhood is not the place for this type of practice. Allowing the 7 foot fence would encourage the continuance of keeping unsafe animals in the neighborhood. Allowing the variance will not prevent animals from escaping any more than the legal limit of 6 feet. In addition, having to listen to barking and fighting dogs is annoying. The residents should take responsibility for the choices they make and obey the ordinances and laws that were made to maintain a peaceful environment for everybody.

Respectfully,
Kathleen DeWitt
(510)885-2547

-----Original Message-----

From: MEANBEECH@aol.com [mailto:MEANBEECH@aol.com]

Sent: Friday, March 14, 2003 3:28 AM

To: Carl Emura

Subject: Variance for Paige Bennett

What are the chances of her keeping the fence at the current height of 7 feet?

I am a neighbor and the fence is an eyesore and it also decreases my property value because **her reason** for keeping it that high.

I realize the dogs are not an issue but her reasoning to keep it is because of the dogs and for our safety. Therefore, the fence should have to be removed because it is only up for the above mentioned reason. It is also the only fence in this neighborhood at this height.

Thank you!

FINDINGS FOR DENIAL
Variance No. Pl-2003-0102
Paige Bennett (Applicant/Owner)
April 10, 2003

- A. The proposed project is Categorically Exempt from the California Environmental Quality Act (CEQA) guidelines, pursuant to Section 15305, Class 5 (a), Minor Alteration in Land Use Limitations.
- B. There are no special circumstances applicable to the property regarding this variance request in that the property is relatively flat and typical of other properties in this residential development.
- C. Strict application of the Zoning Ordinance would not deprive such property of privileges enjoyed by other properties in the vicinity under the same zoning classification in that no other properties in the vicinity have been granted a variance for a 7-foot high fence.
- D. The variance would constitute a grant of a special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the property is situated in that other properties in the vicinity are limited to a 6-foot high fence.